

(B) a permanent injunction after a showing that the agreement is likely to have the effect described in paragraph (1).

(3) BURDEN OF PROOF AND THIRD PARTIES.—In an action under this subsection, the burden of proof is on the Commission. The court may not allow a third party to intervene.

(4) COMPETITION FACTORS.—In making a determination under this subsection regarding whether an agreement is likely to substantially lessen competition in the purchasing of certain covered services, the Commission may consider any relevant competition factors in affected markets, including, without limitation, the competitive effect of agreements other than the agreement under review.

(c) FAILURE TO PROVIDE INFORMATION.—If a person filing an agreement, or an officer, director, partner, agent, or employee of the person, fails substantially to comply with a request for the submission of additional information or documents within the period provided in section 40304(c) of this title, the Commission may bring a civil action in the United States District Court for the District of Columbia. At the request of the Commission, the Court—

- (1) may order compliance;
- (2) shall extend the period specified in section 40304(c)(2) of this title until there has been substantial compliance; and
- (3) may grant other equitable relief that the court decides is appropriate.

(d) REPRESENTATION.—The Commission may represent itself in a proceeding under this section in—

- (1) a district court of the United States, on notice to the Attorney General; and
- (2) a court of appeals of the United States, with the approval of the Attorney General.

(Pub. L. 109–304, § 7, Oct. 6, 2006, 120 Stat. 1547; Pub. L. 115–282, title VII, § 710(a), Dec. 4, 2018, 132 Stat. 4297.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41307(a)	46 App.:1710(h)(1).	Pub. L. 98–237, § 11(c) (last sentence), (h)(1), Mar. 20, 1984, 98 Stat. 80, 81.
41307(b)(1) ..	46 App.:1705(g), (h) (1st sentence).	Pub. L. 98–237, § 6(g)–(i), (k), Mar. 20, 1984, 98 Stat. 72, 73.
41307(b)(2) ..	46 App.:1710(c) (last sentence).	
41307(b)(3) ..	46 App.:1705(h) (2d sentence).	
41307(b)(3) ..	46 App.:1705(h) (3d, last sentences).	
41307(c)	46 App.:1705(i).	
41307(d)	46 App.:1705(k).	

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115–282, § 710(a)(1), inserted “or to substantially lessen competition in the purchasing of certain covered services” after “transportation cost”.

Subsec. (b)(4). Pub. L. 115–282, § 710(a)(2), added par. (4).

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–282, title VII, § 710(b), Dec. 4, 2018, 132 Stat. 4297, provided that: “Section 41307(b) of title 46, United States Code, as amended, shall apply to any agreement filed or with an effective date before, on, or after the date of enactment of this Act [Dec. 4, 2018].”

§ 41308. Enforcement of subpoenas and orders

(a) CIVIL ACTION.—If a person does not comply with a subpoena or order of the Federal Maritime Commission, the Attorney General, at the request of the Commission, or an injured party, may seek enforcement in a district court of the United States having jurisdiction over the parties. If, after hearing, the court determines that the subpoena or order was regularly made and duly issued, the court shall enforce the subpoena or order.

(b) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to enforce an order of the Commission must be brought within 3 years after the date the order was violated.

(Pub. L. 109–304, § 7, Oct. 6, 2006, 120 Stat. 1548.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41308(a)	46 App.:1713(c).	Pub. L. 98–237, § 14(c), (e), Mar. 20, 1984, 98 Stat. 83, 84.
41308(b)	46 App.:1713(e).	

In subsection (a), the words “subpoena or” are added in the second sentence for consistency in the subsection. The words “by an appropriate injunction or other process, mandatory or otherwise” are omitted as unnecessary. The words “regularly made and duly issued” are substituted for “properly made and duly issued” for consistency in the subtitle.

§ 41309. Enforcement of reparation orders

(a) CIVIL ACTION.—If a person does not comply with an order of the Federal Maritime Commission for the payment of reparation, the person to whom the award was made may seek enforcement of the order in a district court of the United States having jurisdiction over the parties.

(b) PARTIES AND SERVICE OF PROCESS.—All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties in the order may be joined as defendants, in a single action in a judicial district in which any one plaintiff could maintain an action against any one defendant. Service of process against a defendant not found in that district may be made in a district in which any office of that defendant is located or in which any port of call on a regular route operated by that defendant is located. Judgment may be entered for any plaintiff against the defendant liable to that plaintiff.

(c) NATURE OF REVIEW.—In an action under this section, the findings and order of the Commission are prima facie evidence of the facts stated in the findings and order.

(d) COSTS AND ATTORNEY FEES.—The plaintiff is not liable for costs of the action or for costs of any subsequent stage of the proceedings unless they accrue on the plaintiff’s appeal. A prevailing plaintiff shall be allowed reasonable attorney fees to be assessed and collected as part of the costs of the action.

(e) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to enforce an order of the Commission must be brought within 3 years after the date the order was violated.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1548.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41309(a)	46 App.:1713(d)(1).	Pub. L. 98–237, §14(d), (e), Mar. 20, 1984, 98 Stat. 83, 84.
41309(b)	46 App.:1713(d)(3).	
41309(c)	46 App.:1713(d)(2) (1st sentence 1st–23d words).	
41309(d)	46 App.:1713(d)(2) (1st sentence 24th–last words, last sentence).	
41309(e)	46 App.:1713(e).	

PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES

CHAPTER 421—REGULATIONS AFFECTING SHIPPING IN FOREIGN TRADE

Sec.	
42101.	Regulations of the Commission.
42102.	Regulations of other agencies.
42103.	No preference to Government-owned vessels.
42104.	Information, witnesses, and evidence.
42105.	Disclosure to public.
42106.	Other actions to remedy unfavorable conditions.
42107.	Refusal of clearance and entry.
42108.	Penalty for operating under suspended tariff or service contract.
42109.	Consultation with other agencies.

§ 42101. Regulations of the Commission

(a) UNFAVORABLE CONDITIONS.—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission shall prescribe regulations affecting shipping in foreign trade, not in conflict with law, to adjust or meet general or special conditions unfavorable to shipping in foreign trade, whether in a particular trade or on a particular route or in commerce generally, including intermodal movements, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and other activities and services integral to transportation systems, and which arise out of or result from laws or regulations of a foreign country or competitive methods, pricing practices, or other practices employed by owners, operators, agents, or masters of vessels of a foreign country.

(b) INITIATION OF REGULATION.—A regulation under subsection (a) may be initiated by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1548.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
42101(a)	46 App.:876(a)(2).	June 5, 1920, ch. 250, §19(a)(2), (e), 41 Stat. 995; Ex. Ord. No. 6166, §12, eff. June 10, 1933; June 29, 1936, ch. 858, title II, §204, title IX, §904, 49 Stat. 1987, 2016; Pub. L. 97–31, §12(46), Aug. 6, 1981, 95 Stat. 157; Pub. L. 101–595, title I, §103, Nov. 16, 1990, 104 Stat. 2979; Pub. L. 102–587, title VI, §6205(b), Nov. 4, 1992, 106 Stat. 5094; Pub. L. 105–258, title III, §301, Oct. 14, 1998, 112 Stat. 1915.
	46 App.:1710a(h) (related to 876(a)(2)).	Pub. L. 100–418, title X, §10002(h) (related to §19(b)(1)(b)), Aug. 23, 1988, 102 Stat. 1572; Pub. L. 105–258, title I, §111(7), Oct. 14, 1998, 112 Stat. 1911.
42101(b)	46 App.:876(e).	

In subsection (a), the word “shall” is substituted for “is authorized and directed”, and the words “prescribe regulations” are substituted for “make rules and regulations”, for consistency in the revised title and to eliminate unnecessary words. The text of 46 App. U.S.C. 1710a(h), insofar as it relates to 46 App. U.S.C. 876(a)(2), is omitted as unnecessary because this chapter already provides for the same remedies as those authorized by the omitted provision.

In subsection (b), the words “on the petition of any person, including another component of the United States Government” are substituted for “pursuant to a petition. Any person, including a common carrier, tramp operator, bulk operator, shipper, shippers’ association, ocean transportation intermediary, marine terminal operator, or any component of the Government of the United States, may file a petition for relief under subsection (a)(2) of this section.” for consistency with section 42302(b) of the revised title and to eliminate unnecessary words.

§ 42102. Regulations of other agencies

(a) REQUEST TO AGENCY.—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission shall request the head of a department, agency, or instrumentality of the United States Government to suspend, modify, or annul any existing regulations, or to make new regulations, affecting shipping in the foreign trade, except regulations relating to the Public Health Service, the Consular Service, or the inspection of vessels.

(b) PRIOR REVIEW AND APPROVAL.—A department, agency, or instrumentality of the Government may not prescribe a regulation affecting shipping in the foreign trade (except a regulation affecting the Public Health Service, the Consular Service, or the inspection of vessels) until the regulation has been submitted to the Commission for its approval and final action has been taken by the Commission or the President.

(c) SUBMISSION TO PRESIDENT.—If the head of a department, agency, or instrumentality of the Government refuses to comply with a request under subsection (a) or objects to a decision of the Commission under subsection (b), the Commission or the head of the department, agency, or instrumentality may submit the facts to the President. The President may establish, suspend, modify, or annul the regulation.

(Pub. L. 109–304, §7, Oct. 6, 2006, 120 Stat. 1549.)